



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: August 24, 2010

Department: Zoning, Building, Planning **Staff Contact:** Catherine VerEecke, Program Planner

TITLE: APPEAL: Cancellation of a Special Use Permit for a Contractor's Yard
(CO-20100008/CSU-83-60)

COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial

SUMMARY:

At the May 25, 2010 hearing, the Board of County Commissioners (BCC) deferred this request for the cancellation of a Special Use Permit for a Contractor's Yard (CSU-83-60) to the August 24 hearing. The BCC instructed the property owner to continue the efforts to comply with the approved site plan for the Special Use Permit in order to avoid cancellation of the Special Use Permit by adding the required landscaping and removing a mobile home, debris, and materials and vehicles (inoperative trucks) that were not approved as part of the Special Use Permit.

At the April 7, 2010 public hearing, the County Planning Commission (CPC) had voted (5-1, Commissioner Melendrez opposed, Commissioner Sanchez excused) to recommend cancellation of a Special Use Permit for a Contractor's Yard on Tract 56, MRGCD Map #29, located at 6535 Edith Boulevard NE, zoned R-2 & C-1, and containing 2.94 acres. The decision was based on five (5) findings (Attachment 1—Notice of Decision).

The request for the cancellation of the Special Use Permit was initiated by the Zoning, Building, Planning, and Environmental Health Department due to the subject property's continued failure to comply with the approved site plan and conditions of the Special Use Permit (CSU-83-60). The Board of County Commissioners had granted the Special Use Permit in 1984 to allow the operation of a contractor's yard on the subject property which is located south of Osuna Rd. on the west side of Edith Blvd. extending to the railroad tracks (See Attachment 2, p. 12, Original Notice of Decision, and Attachment 6, p.51, Site Plan). During inspections of the property over the years, staff had noted various violations of the site plan and conditions of approval including the placement of a mobile home in the rear of the site, the storage of miscellaneous materials and debris, and the sale and storage of trucks, all of which were not approved under the Special Use Permit. In addition, the landscape buffer, which had been required along the north property line as a condition of approval, had not been established. Staff had recently contacted the property owner on several occasions regarding the violations of the Special Use Permit (Attachment 2 pp.16-20), but there was no apparent effort to bring the property into compliance by the time the case was heard by the CPC. Based on the lack of effort to comply with the site plan and the continued violations on the subject property, the CPC voted to cancel the Special Use Permit

based on the findings and recommendations of staff (Attachment 1—Notice of Decision, Attachment 5—Draft CPC Minutes, pp.45-50).

The owner of the subject property (the appellant) is now appealing the decision of the CPC (Attachment 3). In the appeal application, the appellant states that the ‘CPC decision is not justified,’ and that the ‘issue is not a rezoning or land use issue. It is a compliance issue’. The appellant states that he is in the process of bringing the property into compliance with the Special Use Permit and has lived on the adjoining properties for 32 years.

Since the BCC hearing on May 25, 2010, the property owner has made some progress with cleaning up and re-organizing the site to comply with the site plan and the approved uses. Some of the unrelated materials, debris, and inoperative trucks have been removed. However, at the time of this report, the mobile home and two inoperative trucks remained on the site, and the required landscaping along the north property line had not been planted.

ATTACHMENTS:

1. County Planning Commission Notice of Decision Letter (April 12, 2010)	3
2. County Planning Commission Information Packet	5
3. Appeal application	25
4. Resolution 116-86	29
5. Draft CPC Minutes, April 7, 2010 hearing	31
6. Approved Site Plan, dated 3/8/84	51

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING:

Staff recommends denial of appeal.

VERSION 5.0